

REMARKS

In the October 13, 2009 Office Action, claims 1-12 and 14-22 stand rejected in view of prior art. Claim 13 has been withdrawn from further consideration as being drawn to a non-elected species. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the October 13, 2009 Office Action, Applicants have amended claims 1-4, 6, 7, 10, 11, 17 and 20 as indicated above. Also, Applicants have cancelled claims 5, 8, 9, 12, 15, 16, 18, 19, 21 and 22, and added new claims 23-31 as indicated above. Thus, claims 1-4, 6, 7, 10, 11, 13, 14, 17, 20 and 23-31 are now pending, with claims 1-4 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the above amendments and the following comments.

New claim 23 corresponds to previous claim 3, but depends from amended independent claim 1. New claim 24 corresponds to claim 7 but depends from amended independent claim 2. New claim 25 corresponds to claim 11 but depends from amended independent claim 4. New claims 26-28 all correspond to claim 14, but depend from amended independent claims 2-4, respectively. Withdrawn-New claims 29-31 correspond to withdrawn claim 13, but depend from amended independent claims 2-4, respectively. Thus, no new limitations are introduced by these new dependent claims 23-31.

Rejections - 35 U.S.C. § 102

Pages 4-6 of the Office Action, claims 1, 2, 15, 16, 18 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,693,992 (Kurusu et al.). In response, Applicants have amended independent claims 1 and 2 to clearly distinguish this reference.

In particular, independent claims 1 and 2 have been amended to require, *inter alia*, each of the first surface portions forming at least part of a positive pressure surface, which was required in previously dependent claims 21-22.

The Office Action indirectly acknowledges that this limitation (of previously presented claims 21-22) is lacking in the Kurusu et al. patent, i.e., by virtue of previously presented claims 21-22 not being rejected in this section of the Office Action. Accordingly, this rejection is now believed to be moot, and withdrawal of this rejection is respectfully requested.

Rejections - 35 U.S.C. § 103

On pages 6-10 of the Office Action, claims 1-12, 14, 17 and 20-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable as follows:

Rejection (1) claims 1-5, 7-9, 11, 12, 14, 21 and 22 stand rejected as being unpatentable over U.S. Patent No. 6,508,627 (Gerken et al.) in view of U.S. Patent No. 4,971,521 (Atarashi et al.);

Rejection (2) claims 6 and 10 stand rejected as being unpatentable over U.S. Patent No. 6,508,627 (Gerken et al.) in view of U.S. Patent No. 4,971,521 (Atarashi et al.); and

Rejection (3) claims 17 and 20 stand rejected as being unpatentable over U.S. Patent No. 5,693,992 (Kurusu et al.).

In response, Applicants have amended independent claims 1-4 to more clearly distinguish this combination of references.

In particular, independent claims 1 and 2 now require, *inter alia*, each of the first surface portions having an edge portion extending from a side plate end thereof toward a respective one of the second surface portions, with each edge portion being laser welded to the side plate, and each edge portion having an end surface that abuts the respective one of the second surface portions at a side plate end thereof to form part of the blade shape retaining mechanism. See Figure 6 of the instant application where the arrangement of the edge portion 53 extending from the first surface portion 51 toward the second surface portion 61 is shown. Additionally, these independent claims 1 and 2 now require the limitations of previously presented claims 4, 5, 12 and 21(incorporated into claim 1), and previously present claims 15, 16, 12 and 22 (incorporated into claim 2), respectively.

Similarly, independent claims 3 and 4 now require, *inter alia*, each of the first surface portions having an edge portion extending from a main plate end thereof toward a respective one of the second surface portions, with each edge portion being laser welded to the main plate, and each edge portion having an end surface that abuts the respective one of the second surface portions at a main plate end thereof to form part of the blade shape retaining mechanism. See Figure 6 of the instant application where the arrangement of the edge portion 56 extending from the first surface portion 51 toward the second surface portion 61 is shown. Additionally, these independent claims 3 and 4 now require the limitations of previously presented claims 8, 9, 12 and 21(incorporated into claim 3), and previously present claims 18, 19, 12 and 22 (incorporated into claim 4), respectively.

Clearly these arrangements of independent claims 1-4 as now amended are *not* disclosed or suggested by the Gerken et al. patent, the Atarashi et al. patent and/or the Kurusu et al. patent, singularly or in combination.

Rejections (1) and (2)

Neither the Gerken et al. patent nor the Atarashi et al. patent disclose the side plate ends and main plate ends of hollow blades as now set forth in the independent claims 1-4 (especially, the feature of the edge portions (53, 56) being used as both the welding portion and the blade shape retaining mechanism as now set forth in these independent claims). Rather, the Gerken et al. patent does not illustrate the side plate ends and main plate ends of the blades whatsoever, and thus, their structure is not known. Similarly, the Atarashi et al. patent does not illustrate the side plate ends and main plate ends of the blades whatsoever, and thus, their structure is not known. Therefore, these references, singularly or in combination cannot disclose or suggest the unique arrangements of independent claims 1-4. Accordingly, withdrawal of this rejection of independent claims 1-4 is respectfully requested.

Under U.S. patent law, the mere fact that the prior art can be modified does *not* make the modification obvious, unless an *apparent reason* exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some “apparent reason to combine the known elements in the fashion claimed.” Id. at

1741. In this case, the current record lacks any apparent reason, suggestion or expectation of success for combining the patents, and then further modifying the hypothetical device created by such a hypothetical combination in order to create Applicants' unique arrangement of independent claims 1-4. Accordingly, withdrawal of this rejection of independent claims 1-4 is respectfully requested.

Moreover, Applicants believe that dependent claims 5-12, 14, 21 and 22 are also allowable over the prior art of record in that they depend from these independent claims 1-4, and therefore are allowable for the reasons stated above. Also, the dependent claims 5-12, 14, 21 and 22 are further allowable because they include additional limitations, which in combination with the limitations of their respective independent claims, are not disclosed or suggested in the prior art. Accordingly, withdrawal of this rejection of dependent claims 5-12, 14, 21 and 22 is also respectfully requested.

Rejection (3)

Independent claims 2 and 4 require, *inter alia*, each of the first surface portions forming at least part of a positive pressure surface, which was required in previously dependent claims 21-22. The Office Action indirectly acknowledges that this limitation (of previously presented claims 21-22) is lacking in the Kurusu et al. patent, i.e., by virtue of previously presented claims 21-22 not being rejected in this section of the Office Action. Since the Kurusu et al. patent does not disclose or suggest this limitation of independent claims 1 and 2, the Kurusu et al. patent cannot disclose or suggest the arrangements of dependent claims 17 and 20, which depend from independent claims 2 and 4, respectively. Accordingly, this rejection is now believed to be moot, and withdrawal of this rejection is respectfully requested.

New Claims

Applicants have added new claims 23-31 as indicated above. New claim 23 corresponds to previous claim 3, but depends from amended independent claim 1. New claim 24 corresponds to claim 7 but depends from amended independent claim 2. New claim 25 corresponds to claim 11 but depends from amended independent claim 4. New claims 26-28 all correspond to claim 14, but depend from amended independent claims 2-4, respectively. Withdrawn-New claims 29-31 correspond to withdrawn claim 13, but depend from amended

Appl. No. 10/561,389
Amendment dated January 11, 2010
Reply to Office Action of October 13, 2009

independent claims 2-4, respectively. Thus, no new limitations are introduced by these new dependent claims 23-31.

New claims 29-31 do not read on the elected embodiment, and thus, can be withdrawn from consideration as being directed to a non-elected embodiment.

New claims 23-28 depend from independent claims 1-4, and thus, are believed to be allowable for the reasons stated above with respect to independent claims 1-4. Also, new dependent claims 23-28 are further allowable because they include additional limitations (like previously presented dependent claims 3, 7, 11 and 14, which in combination with the limitations of their respective independent claims, are not disclosed or suggested in the prior art of record.

* * *

In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-4, 6, 7, 10, 11, 13, 14, 17, 20 and 23-31 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. If there are any questions regarding this Amendment, please feel free to contact the undersigned.

Respectfully submitted,

/Patrick A. Hilsmier/
Patrick A. Hilsmier
Reg. No. 46,034

GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, DC 20036
(202)-293-0444
Dated: January 11, 2010

S:\01-JAN10-PTY\DK-US030726 Amendment (Applicants plural).doc